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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FAX RECEIVED

In re application of: Lustig et al.

Group Art Unit: 1646

JAN 05 2000

Serial No. 09/163,713

Examiner: Michael D. Pak

GROUP 1600

Filed: September 30, 1998

Attorney Docket No. T97-012-1

For: Nuclear Hormone Receptor Drug Screens

## CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by fax to the Assist Comm for Patents at (703) 305-3704 on January 4, 2000

Signed

Richard Osman

RESPONSE TO RESTRICTION

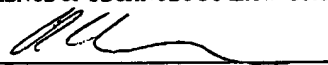
The Assistant Commissioner for Patents  
Washington, DC 20231

Dear Commissioner:

In response to the Restriction Requirement mailed 12/23/99, we elect group I.

At the same time, we request that the claims of group II be examined with group I. We believe the allegation in the Action that the mixture of group II can be used in a materially different process is both unsupported and unfounded. The suggested use in a process of raising antibodies is irrational, as no one would combine the required components of the mixture to make an immunogen - presumably, antibodies are made for their specificity and it would be illogical to intentionally make a nonspecific antibody by immunizing with a mixture rather than the uncombined components of the mixture. The proffered utility is a "throw-away" utility, such as the use of a complex invention as landfill, specifically frowned upon by the PTO, see Federal Register: December 21, 1999 (Volume 64, Number 244). Absent a showing of a *bona fide* material use of the claimed mixture of group II beyond the methods of group I, the claims are properly examined together.

Respectfully submitted,  
SCIENCE & TECHNOLOGY LAW GROUP

  
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